International Criminal Court ICC-ASP/2/WGSR/L.1/Rev.1

Assembly of States Parties

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Report of the Working Group on Staff Regulations

I. Introduction

1. The Working Group on Staff Regulations of the Assembly of States Parties to the Rome Statute of the International Criminal Court which was established during the second session of the Assembly, on 8 September 2003, held three meetings, on 9, 10 and 11 September 2003. It also held informal consultations on 11 September 2003. Following consultations with the Bureau, the President of the Assembly appointed Gaile Ann Ramoutar (Trinidad and Tobago) as Chairperson of the Working Group.

2. The Codification Division of the Office of Legal Affairs of the United Nations Secretariat provided the substantive servicing to the Working Group.

3. The Working Group had before it the draft staff regulations for the Court contained in the annex to document ICC-ASP/2/6, prepared by the Registrar, with the agreement of the Presidency and the Prosecutor of the Court, in compliance with article 44, paragraph 3, of the Statute. At the first meeting of the Working Group, the Registrar of the Court, Bruno Cathala, introduced the draft staff regulations.

II. Consideration of the draft staff regulations

4. At its first and second meetings, the Working Group considered articles 1 through 12 of the draft staff regulations. The Registrar answered the questions put to him by delegates and clarified the points on which clarifications were requested.

5. At its third meeting, on 11 September 2003, the Working Group adopted the draft staff regulations contained in the annex to document ICC-ASP/2/6, which had been orally amended as follows:

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Title

Add a footnote to the title of the Staff Regulations, indicating that Assembly resolution ICC-ASP/1/Res.10 comprises an integral part of the Staff Regulations.

Scope and purpose

In the second sentence of the first paragraph, after the word "Registry," add the words "of which the Secretariat of the Assembly of States Parties to the Rome Statute of the Court is an integral part".

After the second paragraph, add the following new paragraphs:

"In the exercise of his functions and duties under these Regulations and the rules in relation to the staff of the Secretariat, the Registrar shall act in consultation with and upon the advice of the Director of the Secretariat."[1]

"In the exercise of his functions and duties under these Regulations and the rules in relation to the Director of the Secretariat, the Registrar shall act in consultation with and upon the advice of the Bureau acting in consultation with the Assembly of States Parties."[1]

Regulation 4.1

In the second sentence, delete the words "including a staff member on secondment from government service".

Regulation 12.2

The regulation should read:

"The Registrar, with the agreement of the Presidency and the Prosecutor, shall provide such staff rules that are consistent with the present Staff Regulations as they consider necessary. The full text of provisional staff rules and amendments shall be reported annually to the Assembly. Should the Assembly, upon consideration, find that a provisional rule and/or amendment is inconsistent with the intent and purpose of the Regulations, it may direct that the rule and/or amendment be withdrawn or modified."

6. The Staff Regulations were adopted on the understanding that the staff rules of the Court to be provided by the Registrar in accordance with Regulation 12.2 of the Staff Regulations shall specify instances when the Registrar or the Prosecutor, as appropriate, may terminate the appointment of a staff member in accordance with Regulation 9.1 (b) (vi) as well as disciplinary measures referred to in Regulation 10.2 (a).

[1] It was the understanding of the Working Group that these paragraphs should be interpreted as having the same meaning as the relevant provisions of Assembly resolution ICC-ASP/2/Res._ on the establishment of the permanent secretariat of the Assembly.

III. Recommendation to the Assembly of States Parties

7. The Working Group on Staff Regulations recommends that the Assembly of States Parties to the Rome Statute of the International Criminal Court approve, in accordance with article 44, paragraph 3, of the Rome Statute, the draft staff regulations for the Court contained in the annex to document ICC-ASP/2/6, as amended in paragraph 5 above.

8. The Working Group therefore recommends to the Assembly the adoption of the following resolution:

"Staff regulations for the International Criminal Court

"The Assembly of States Parties to the Rome Statute of the International Criminal Court,

"*Considering* article 44, paragraph 3, of the Rome Statute, according to which the Registrar, with the agreement of the Presidency and the Prosecutor, shall propose to the Assembly of States Parties to the Statute staff regulations which include the terms and conditions upon which the staff of the Court shall be appointed, remunerated and dismissed,

"*Considering* article 38, paragraph 3, of the Rome Statute, according to which the Presidency shall be responsible for the proper administration of the Court, with the exception of the Office of the Prosecutor,

"*Considering* article 42, paragraph 2, of the Rome Statute, according to which the Prosecutor shall have full authority over the management and administration of the Office, including staff, facilities and other resources thereof,

"*Considering* article 43, paragraphs 1 and 2, of the Rome Statute, according to which the Registrar shall be the principal administrative officer of the Court exercising his functions under the authority of the President of the Court, and on the basis of which he shall be responsible for the non-judicial aspects of the administration and servicing of the Court, without prejudice to the functions and powers of the Prosecutor in accordance with article 42 of the Rome Statute,

"*Considering* the Rules of Procedure and Evidence adopted by the Assembly of States Parties on 9 September 2002,

"*Emphasizing* the need to establish a flexible, efficient and fair system for the appointment, remuneration and dismissal of staff of the Court taking into account the requirements of each of the organs of the Court,

"*Bearing in mind* its resolution ICC-ASP/2/Res.__ on the establishment of the permanent secretariat of the Assembly of States Parties to the International Criminal Court,

"*Noting and encouraging* the ongoing coordination and cooperation between the Organs of the Court,

"1. *Approves* the Staff Regulations for the International Criminal Court, which are contained in the annex to the present resolution;

"2. *Decides* that its resolution ICC-ASP/1/Res.10, which is annexed to the Staff Regulations, shall continue to apply as an integral part of the Staff Regulations.

"Annex

"Staff Regulations for the International Criminal Court*

"Scope and purpose

"The Staff Regulations, promulgated in accordance with article 44, paragraph 3, of the Rome Statute of the International Criminal Court, embody the fundamental conditions of service and the basic rights and obligations of the staff of the International Criminal Court (hereinafter 'the Court'). They represent the broad principles of personnel policy for the staffing and administration of the Registry, of which the Secretariat of the Assembly of States Parties to the Rome Statute of the Court is an integral part, the Presidency, the Chambers and the Office of the Prosecutor.

"For the purpose of these Regulations, the expression 'staff member' and 'staff' shall refer to all staff members of the Court within the meaning of article 44 of the Rome Statute.

"In the exercise of his functions and duties under these Regulations and the rules in relation to the staff of the Secretariat, the Registrar shall act in consultation with and upon the advice of the Director of the Secretariat.

"In the exercise of his functions and duties under these Regulations and the rules in relation to the Director of the Secretariat, the Registrar shall act in consultation with and upon the advice of the Bureau acting in consultation with the Assembly of States Parties.

"The Staff Regulations and Rules shall apply to all staff of the Court.

"Article I
Duties, obligations and privileges

"Regulation 1.1

"Status of staff

"(a) Staff members of the Court are international civil servants. Their responsibilities as staff members of the Court are not national but exclusively international.

"(b) Staff members of the Court shall make the following written declaration, which shall be witnessed by the Registrar or the Prosecutor, as appropriate, or an authorized representative of the Registrar or the Prosecutor, in accordance with Rule 6 of the Rules of Procedure and Evidence of the Court:

* Resolution ICC-ASP/1/Res.10 of the Assembly of States Parties to the International Criminal Court shall comprise an integral part of these Regulations.

'I solemnly undertake that I will perform my duties and exercise my powers as [title] of the International Criminal Court honourably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of investigations and prosecutions.'

"(c) The Registrar or the Prosecutor, as appropriate, shall ensure that the rights and duties of staff members, as set out in the Rome Statute and the Staff Regulations and Rules and in the relevant resolutions and decisions of the Assembly of States Parties, are respected.

"(d) The Registrar or the Prosecutor, as appropriate, shall seek to ensure that the paramount consideration in the determination of the conditions of service shall be the necessity of securing staff of the highest standards of efficiency, competence and integrity.

"(e) The Staff Regulations shall apply to all staff at all levels.

"(f) The privileges and immunities enjoyed by the Court by virtue of article 48 of the Rome Statute are conferred in the interests of the Court. Those privileges and immunities furnish no excuse to the staff members who are covered by them to fail to observe applicable laws and police regulations of the State in which the offices of the Court are located or in which the Court is operating, nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of those privileges and immunities, the staff member shall immediately report the matter to the Registrar or the Prosecutor, as appropriate, in accordance with the provisions of the Statute, the Agreement on Privileges and Immunities of the Court and the Headquarters Agreement, who may decide whether such privileges and immunities exist and whether they shall be waived in accordance with the relevant instruments.

"Regulation 1.2

"Core values

"(a) Staff members of the Court shall uphold and respect the principles embodied in the Rome Statute, including faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women. Consequently, staff members shall exhibit respect for all cultures; they shall not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them.

"(b) Staff members of the Court shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, compliance with the relevant standards on confidentiality established by the Court, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.

"General rights and obligations

"(c) Staff members of the Court are subject to the authority of the President, the Registrar or the Prosecutor, as appropriate, and to assignments by them to any of the relevant activities or offices of the Court. In exercising that authority, the President, the Registrar and the Prosecutor shall seek to

ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for staff carrying out the responsibilities entrusted to them.

"(d) In the performance of their duties, staff members of the Court shall neither seek nor accept instructions from any Government or from any other source external to the Court.

"(e) By accepting appointment, staff members pledge themselves to discharge their functions and regulate their conduct with the interest of the Court only in view. Loyalty to the aims, principles and purposes of the Court, as set forth in the Rome Statute, is a fundamental obligation of all staff members by virtue of their status as international civil servants.

"(f) While staff members' personal views and convictions, including their political and religious convictions, remain inviolable, staff members shall ensure that those views and convictions do not adversely affect their official duties or the interest of the Court. They shall conduct themselves at all times in a manner befitting their status as international civil servants and shall not engage in any activity that is incompatible with the proper discharge of their duties with the Court. They shall avoid any action, in particular any kind of public pronouncement, that may adversely reflect on their status or on the integrity, independence and impartiality that are required by that status.

"(g) Staff members of the Court shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the private gain of any third party, including family, friends and those they favour. Nor shall staff members use their office for personal reasons to prejudice the positions of those they do not favour.

"(h) Staff members of the Court may exercise the right to vote but shall ensure that their participation in any political activity is consistent with, and does not reflect adversely upon, the independence and impartiality required by their status as international civil servants.

"(i) Staff members of the Court shall exercise the utmost discretion with regard to all matters of official business. They shall not communicate to any Government, entity, person or any other source any information known to them by reason of their official employment with the Court that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Registrar or the Prosecutor, as appropriate. Those obligations do not cease upon separation from service.

"Confidentiality

"(j) Staff members shall uphold the highest standards of confidentiality in the discharge of their duties. Those standards include:

"(i) Full conformity to policies and procedures of the Court regarding confidentiality of documents, proceedings and other matters;

"(ii) Preservation of the integrity of information and evidence in whatever form held by the Court and refusal to compromise the effective retention, storage and security of information and evidence in whatever form it may exist;

"(iii) Discernment and vigilance regarding all communications that may raise issues of confidentiality, particularly communications with persons outside the Court;

"(iv) Immediate reporting of suspected breaches of confidentiality, especially where such suspected breaches would pose a danger to the safety, well-being or privacy of staff, victims, witnesses, the accused and their families;

"(v) Containment of reported breaches of confidentiality by refraining from unnecessary discussions thereof in any context.

"Honours, gifts and remuneration

"(k) No staff member of the Court shall accept any honour, decoration, favour, gift or remuneration from any Government or from any non-governmental source without first obtaining the approval of the Registrar or the Prosecutor, as appropriate.

"(l) If refusal of an unanticipated honour, decoration, favour or gift from a Government would cause embarrassment to the Court, the staff member may receive it on behalf of the Court and then report and entrust it to the Registrar or the Prosecutor, as appropriate, who will either retain it for the Court or arrange for its disposal for the benefit of the Court or for a charitable purpose.

"Conflict of interest

"(m) Staff members shall not be actively associated with the management of, or hold a financial interest in, any profit-making business or other concern, if it is possible for the staff member or the profit-making business or other concern to benefit from such association or financial interest by reason of his or her position with the Court.

"Outside employment and activities

"(n) Staff members of the Court shall not engage in any outside occupation or employment, whether remunerated or not, without the prior approval of the Registrar or the Prosecutor, as appropriate.

"(o) The Registrar or the Prosecutor, as appropriate, may authorize staff members of the Court to engage in an outside occupation or employment, whether remunerated or not, if:

"(i) The outside occupation or employment does not conflict with the staff member's official functions or the status of an international civil servant;

"(ii) The outside occupation or employment is not against the interest of the Court; and

"(iii) The outside occupation or employment is permitted by local law at the duty station or where the occupation or employment occurs.

"Use of property and assets

"(p) Staff members of the Court shall only use the property and assets of the Court for official purposes and shall exercise reasonable care when utilizing such property and assets.

"(q) Staff members of the Court must respond fully to requests for information from those authorized by the Court or the Assembly of States Parties to investigate possible misuse of funds, waste or abuse.

"Regulation 1.3

"(a) Staff members of the Court are accountable to the President, the Registrar or the Prosecutor, as appropriate, for the proper discharge of their functions. Staff members are required to uphold the highest standards of efficiency, competence and integrity in the discharge of their functions, and their performance will be appraised periodically to ensure that the required standards of performance are met.

"(b) Staff members of the Court shall be at the disposal of the Registrar or the Prosecutor, as appropriate, for the performance of official functions; however, the Registrar, in consultation with the Prosecutor, shall establish a normal working week and shall establish official holidays for the Court. Exceptions may be made by the Registrar or the Prosecutor, as appropriate, and staff members shall be required to work beyond the normal working hours when requested to do so.

"Article II
Classification of posts and staff

"Regulation 2.1

"In conformity with principles laid down by the Assembly of States Parties, the Registrar, in consultation with the Prosecutor, shall make appropriate provision for the classification of posts according to the nature of the duties and responsibilities required and in conformity with the United Nations common system of salaries, allowances and benefits (hereinafter 'the United Nations common system standards').

"Article III
Salaries and related allowances

"Regulation 3.1

"Salaries and allowances of staff members of the Court shall be fixed by the Registrar, in consultation with the Prosecutor, and they shall be in conformity with the United Nations common system standards.

"Regulation 3.2

"The Registrar, in consultation with the Prosecutor, shall establish the applicable gross pensionable salary scales for the General Service category of staff of the Court as well as the scale of pensionable remuneration for staff in

the Professional and higher categories of the Court, in conformity with United Nations common system standards.

"Regulation 3.3

"Staff members of the Court shall be entitled to receive a dependency benefit and/or dependency allowances, in conformity with United Nations common system standards.

"Regulation 3.4

"(a) The Registrar, in consultation with the Prosecutor, shall, in conformity with United Nations common system standards, establish terms and conditions under which an education grant shall be available to staff members of the Court residing and serving outside their recognized home country.

"(b) The Registrar, in consultation with the Prosecutor, shall, in conformity with United Nations common system standards, establish terms and conditions under which an education grant shall be available to staff members whose children are unable, by reason of physical or mental disability, to attend a normal educational institution or, while attending a normal educational institution, require special teaching or training to assist them in overcoming the disability.

"Regulation 3.5

"The Registrar may, in consultation with the Prosecutor, conclude bilateral tax reimbursement agreements with States, where it is appropriate and in the operational interests of the Court.

"Article IV
Appointment and promotion

"Regulation 4.1

"In accordance with articles 42 and 43 of the Rome Statute, the power of appointment of staff members rests with the Registrar and the Prosecutor, respectively. Upon appointment, each staff member shall receive a letter of appointment signed by the Registrar or the Prosecutor, as appropriate, or by an official in the name of the Registrar or the Prosecutor.

"Regulation 4.2

"The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to representation of the principal legal systems of the world, equitable geographical representation and fair representation of female and male staff members.

"Regulation 4.3

"In accordance with the principles of the Rome Statute, selection of staff members shall be made without distinction as to race, sex or religion. The selection shall normally be made on a competitive basis.

"Regulation 4.4

"Subject to the provisions of article 44 of the Rome Statute and without prejudice to the recruitment of new talent at all levels, the fullest regard shall be paid, in filling vacancies, to the requisite qualifications and experience of staff members already in the service of the Court.

"Regulation 4.5

"(a) Staff members shall be granted such fixed-term and short-term appointments that are consistent with the present Regulations as the Registrar or the Prosecutor, as appropriate, may prescribe. An appointment may be extended or renewed at the discretion of the Registrar or the Prosecutor, as appropriate, if the staff member is willing to accept such extension or renewal. At no time shall an appointment be deemed to carry any expectation or right to extension or renewal.

"(b) An initial fixed-term appointment may be subject to a probationary period, as determined by the Registrar or the Prosecutor, as appropriate.

"Regulation 4.6

"The Registrar, in consultation with the Prosecutor, shall establish appropriate medical standards that staff members shall be required to meet before appointment.

"Regulation 4.7

"Consultants, individual contractors, interns and other personnel may be engaged under such terms and conditions as the Registrar or the Prosecutor, as appropriate, may determine and shall not be staff members for the purposes of the present Regulations.

"Article V
Annual and special leave

"Regulation 5.1

"Staff members shall be allowed appropriate annual leave, in conformity with United Nations common system standards.

"Regulation 5.2

"Special leave may be authorized by the Registrar or the Prosecutor, as appropriate, in exceptional cases.

"Regulation 5.3

"Eligible staff members shall be granted home leave in conformity with United Nations common system standards. Staff members whose home country is either the country of their official duty station or the country of their normal residence while in the Court's service shall not be eligible for home leave.

"Article VI
Social security

"Regulation 6.1

"(a) Provision shall be made for the participation of staff members in the United Nations Joint Staff Pension Fund in accordance with the regulations of that Fund.

"(b) The United Nations Administrative Tribunal shall, under the conditions prescribed in its statute, hear and pass judgement upon application from staff members concerning all pension matters.

"Regulation 6.2

"The Registrar, in consultation with the Prosecutor, shall establish a scheme of social security for the staff, including provision for health protection, sick leave and maternity leave and reasonable compensation in the event of illness, accident or death attributable to the performance of official duties on behalf of the Court, in conformity with United Nations common system standards.

"Article VII
Travel and removal expenses

"Regulation 7.1

"Subject to conditions and definitions prescribed by the Registrar, in consultation with the Prosecutor, the Court shall pay the travel expenses of staff members and their spouses and dependent children.

"Regulation 7.2

"Subject to conditions and definitions prescribed by the Registrar, in consultation with the Prosecutor, the Court shall pay removal costs for staff members.

"Article VIII
Staff relations

"Regulation 8.1

"(a) The Registrar or the Prosecutor, as appropriate, shall establish and maintain continuous contact and communication with the staff in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other personnel policies.

"(b) A staff representative body shall be established by the Registrar, in consultation with the Prosecutor. It shall be entitled to initiate proposals to the Registrar or the Prosecutor, as appropriate, for the purpose set forth in subparagraph (a) above. It shall be organized in such a way as to afford equitable representation to all staff members, by means of elections that shall take place at least biennially under electoral regulations drawn up by the

respective staff representative body and agreed to by the Registrar, in consultation with the Prosecutor.

"Article IX
Separation of service

"Regulation 9.1

"(a) The Registrar or the Prosecutor, as appropriate, shall give their reasons for the termination of the appointment of a staff member.

"(b) The Registrar or the Prosecutor, as appropriate, may terminate the appointment of a staff member prior to the expiration date of his or her contract:

"(i) If the necessities for the service require the abolition of the post or reduction of the staff;

"(ii) If the services of the individual concerned prove unsatisfactory;

"(iii) If he or she is, for reasons of health, incapacitated for further service;

"(iv) If facts anterior to the appointment of the staff member and relevant to his or her suitability come to light that, had they been known at the time of his or her appointment, should, under the standards established in the Statute, have precluded his or her appointment;

"(v) For any other reasons specified in the letter of appointment; or

"(vi) If in their opinion such termination would be in the interest of the Court.

"Regulation 9.2

"If the Registrar or the Prosecutor, as appropriate, terminates an appointment, the staff member shall be given such notice and such indemnity payment as may be applicable under the present Regulations and the Staff Rules. Payments of termination indemnity shall be made by the Registrar or the Prosecutor, as appropriate, in conformity with United Nations common system standards.

"Regulation 9.3

"Staff members may resign from the Court upon giving the Registrar or the Prosecutor, as appropriate, the notice required under the terms of their appointment.

"Regulation 9.4

"The Registrar, in consultation with the Prosecutor, shall establish a scheme for the payment of repatriation grants, in conformity with United Nations common system standards.

"Regulation 9.5

"Staff members shall not be retained in active service beyond the age of sixty-two years. The Registrar or the Prosecutor, as appropriate, may, in the interest of the Court, extend that age limit in exceptional cases.

"Article X
Disciplinary measures

"Regulation 10.1

"The Registrar or the Prosecutor, as appropriate, shall establish administrative machinery with staff participation which will be available to advise them in disciplinary cases.

"Regulation 10.2

"(a) The Registrar or the Prosecutor, as appropriate, may impose disciplinary measures on staff members whose conduct is unsatisfactory.

"(b) The Registrar or the Prosecutor, as appropriate, may summarily dismiss a member of the staff for serious misconduct, including breach of confidentiality.

"Article XI
Appeals

"Regulation 11.1

"The Registrar or the Prosecutor, as appropriate, shall establish administrative machinery with staff participation to advise them in case of any appeal by staff members against an administrative decision alleging the non-observance of their terms of appointment, including all pertinent regulations and rules.

"Regulation 11.2

"The Administrative Tribunal of the International Labour Organization shall, under conditions prescribed in its statute, hear and pass judgement upon applications from staff members alleging non-observance of their terms of appointment, including all pertinent regulations and rules.

"Article XII
Amendment and implementation

"Regulation 12.1

"The present Regulations may be supplemented or amended by the Assembly of States Parties, on the proposal of the Registrar, with the agreement of the Presidency and the Prosecutor, without prejudice to the acquired rights of staff members.

"Regulation 12.2

"The Registrar, with the agreement of the Presidency and the Prosecutor, shall provide such staff rules that are consistent with the present Staff Regulations as they consider necessary. The full text of provisional staff rules and amendments shall be reported annually to the Assembly. Should the Assembly, upon consideration, find that a provisional rule and/or amendment is inconsistent with the intent and purpose of the Regulations, it may direct that the rule and/or amendment be withdrawn or modified."